

AN INTERTEXTUAL ANALYSIS OF JUSTICE IN LEGAL FICTION: ALBERT CAMUS AND FRANZ KAFKA

Eucharía EBELECHUKWU

Department of European Languages & Integration Studies, University of Lagos,
Lagos, Nigeria

eebelechukwu@unilag.edu.ng, +2348064944336

&

Fatai ASODUN

Department of Philosophy, University of Lagos, Lagos, Nigeria.

fasodun@unilag.edu.ng, +2348033472228

Abstract

Justice seems to have been stripped of its essence as injustice, in different shades, continues to thrive everywhere. Indeed many have given up on governments and leadership as agents of securing, maintaining, and sustaining justice in societies. The reality is that different individuals have varying painful narrations about their share of societal injustice. Should the individual continue to fold their arms in despair? How can morality, equity, and fairness as critical elements of justice be enforced for the benefit of the individual and humanity as a whole? The current paper responds to these questions through legal fiction with the objective to showcase how to existentially confront injustice with individual consciousness, resentment, and self-determination. In view of this, the following texts are selected for review by the paper: Albert Camus' *The Just Assassins*, *The Guest*, and *The Fall*; Frank Kafka's *The Trial*, *The Judgment*, and *In The Penal Colony*. Adopting Julia Kristeva's theory of intertextuality as a method of analysis, the study revealed the potency of legal fiction in deploying individual consciousness to confront the pain derived from an injustice of the soul. It further revealed that justice will reign if its experience projects consciously from the "self" to the "others". "Self-to-others" justice reflects the absurd as viewed by Camus and Kafka. Absurdity in this sense is the "affirmation of others" through "self-denial" as an affront to injustice, even at the price of death albeit the burial of greed, intolerance, and cruelty.

Keywords: Absurdity, Equity, Intertextuality, Justice, Legal fiction, Morality.

Résumé

La justice semble avoir été vidée de son essence car partout, l'injustice règne de façon continue, et sous différentes formes. En effet, nombreux sont ceux qui ont renoncé à considérer les gouvernements et les dirigeants comme des agents capables de garantir, maintenir et entretenir la justice dans les sociétés. En réalité, les individus ont tous des récits douloureux différents sur leur part d'injustice dans la société. L'individu doit-il continuer à se croiser les bras dans le désespoir ? Comment la moralité, l'équité et la justice, éléments essentiels de la justice, peuvent-elles être appliquées dans l'intérêt de l'individu et de l'humanité dans son ensemble ? Le présent document répond à ces questions par le biais de la fiction juridique. Le but est de montrer comment confronter l'injustice de manière existentielle avec la conscience individuelle, le ressentiment et l'autodétermination. Vu ceci donc, les textes suivants seront examinés dans le cadre de cette recherche : *Les Justes*, *L'hôte* et *La Chute* d'Albert Camus ; *Le Procès*, *Le verdict* et *La Colonie pénitentiaire* de Franz Kafka. Avec l'adoption de la théorie

d'intertextualité de Julia Kristeva comme méthode d'analyse, l'étude a révélé la puissance de la fiction juridique dans le déploiement de la conscience individuelle pour faire face à la douleur dérivée d'une injustice de l'âme. Elle a également révélé que la justice régnera si son expérience se projette consciemment du « soi » vers les « autres ». La justice « de soi à l'autre » reflète l'absurde tel que conçu par Camus et Kafka. L'absurdité, dans ce sens, est « l'affirmation des autres » par le « renoncement à soi » comme un affront à l'injustice, même au prix de la mort, même si l'on enterre l'avidité, l'intolérance et la cruauté.

Mots-clés : Absurdité, Équité, Intertextualité, Justice, Fiction juridique, Moralité

Introduction

Justice as a universal concept underscores morality, equity, and fairness in human interactions. However, rather than portraying all of these in many societies, inequality and injustice continue to threaten human coexistence and sustainable development despite unceasing societal efforts to strengthen legal institutions. Concerned about what they perceived to be a perversion of justice in many societies, philosophers over the ages have been advancing different ideas to unearth the nature of justice itself (Plato, Thomas Hobbes, John Locke, George Hegel, and Karl Marx). Our review of this list of literature reveals that the issue of how the individual ought to existentially confront injustice did not receive adequate attention. More emphasis is placed on justice as a satisfaction of the state's interest.

This informs the aim of this paper to explore the frontiers of legal fiction as an attempt to fill this lacuna. The objective is to employ the legal fictions of Albert Camus and Franz Kafka as the instrument of profiling how the individual can absurdly confront the crisis of injustice in order to institute justice in the society. Consequently, we shall subject Albert Camus' *The Just Assassins*, *The Guest*, and *The Fall*, and Franz Kafka's *The Trial*, *The Judgment*, and *In The Penal Colony* to Julia Kristeva's theory of intertextuality in order to tease out and juxtapose two related themes that are germane to this paper. First is the individual's self-critical judgement to subject their will to the dictate of societal justice. Second is the individual's will to confront injustice by engaging in the absurd in order to actualise justice.

The paper is divided into six sections. We introduce Julia Kristeva's intertextuality as our research methodology in the first section. Bearing in mind the philosophical underpinnings of justice, we undertake a thematic literature review of the struggle between the individual and the society on justice in the second section. The third section introduces the literary and social background of Camus and Kafka's era while the fourth section examines the existential themes that influenced their thoughts on justice. We dialogue with Camus and Kafka's thoughts on justice in sections five and six respectively before concluding the paper.

The Julia Kristeva intertextuality

The choice of intertextual analysis as our literary method is to achieve a systematic unbundling of the existential role of the individual's consciousness and self-determination in the attainment of justice in the society. Thus, in a novel manner, we bring to the fore, the interconnectedness and relatedness of Camus and Kafka's robust ideas on the individual's absurd reaction as an affront to injustice in the polity. The word intertextuality was introduced by Julia Kristeva to explicate Mikhail Bakhtin's theory, which says: "literary texts are responses to previous literary utterances. No

literary text stands alone, but they become dialogic in nature, an interweaved and intertextual library system that converses” (35-36).

According to Kristeva, Bakhtin was one of the first to replace the static hewing out of texts with a model where literary structure does not simply exist but is generated in relation to another structure. She stresses that what allows a dynamic dimension to structuralism is Bakhtin’s conception of “literary word” as an intersection of textual surfaces rather than a point (a fixed meaning), as dialogue among several writings: that of the writer, the addressee (or the character) and the contemporary of earlier cultural context. She points out three dimensions or coordinates: The writing subject (the word in the text), the addressee (the word in the text as a discourse which fuses with the discourse in another book or text in relation to which the writer has written his own text)) and exterior texts. This produces what Bakhtin calls horizontal axis (subject-addressee) and vertical axis (text-context). Both axis coincide and form an intersection of word (texts) where at least one other word (text) can be read. Bakhtin calls the axis: Dialogue and Ambivalence, because “any text is constructed a "mosaic of quotations, any text is the absorption and transformation of another” The notion of intertextuality, on this note, replaces intersubjectivity, and poetic language is read at least double (Kristeva, 37).

Intertextuality is, therefore, the interconnectivity of texts, the interdependence of texts (Zengin, 299-327), and, a gliding from texts to texts for meaning. It is a dialogue of texts which uncovers literary sources, writers, messages, relationships, history, and society. In subjecting Camus and Kafka texts to intertextual dialogue and analysis, we shall uncover how the individual existentially confronts the absurdity of justice. A quick review of relevant philosophical literature on basic themes of justice shall prepare the appropriate literary direction for our intertextual analysis.

A review of Literature on some philosophical underpinnings of justice

In this section, we are going to look at justice as conflict, justice as a contractual agreement between the individual and the state, and, justice as harmony and virtue of the soul.

i. Justice as the product of conflict

Facts of reality reveal that opposites exist together in nature consequently conflict is inevitable. Thinkers like Heraclitus, Hegel, and Marx aver that justice and injustice in the society are the outcomes of how the conflict between opposites is managed. Heraclitus a pre-Socratic Greek philosopher of the 5th century pioneered the idea of the continuum, which explains that everything flows and nothing abides, everything gives way and nothing stays fixed (Harris). The essence of justice (dike), he says, is not permanence but a dynamic process of flux and opposition, which to him, are necessary for life (Gagarin and Woodruff). If there were no constant conflict of opposites, there would be no alternation of day and night, or, hot and cold. Consequently, as reflected in some of the popular fragments of his thought, Strife (Eris) or conflict is justice and it is a pre-condition of life. According to one of his popular sayings, Good and evil are the same, pure and impure are the same, drinkable and undrinkable are the same. Seawater is pure and very foul, for a whale fish it is drinkable and healthy, to men, it is hurtful and unfit to drink. Men would not have known the name justice if these things (injustices) were not.

To account for how chaos would be managed in the midst of the unstoppable conflict of opposites in reality, Heraclitus introduces the concept of “logos”. Logos is the divine law, the universal principle of order, and the universal reason that regulates the conflict of opposites. The order in the universe is a measure of justice (Shaw, 157-167). The logos manages the boundaries of opposites to ensure order. Our concern is that if Heraclitus’ theory were applied to human social reality, the individual would have no role to play in the administration of justice. Although the struggle of opposites rightly reflects human reality as espoused in the theory, his discountenance of the individual’s role in the management of conflict and administration of justice is incontestable.

G.W.F. Hegel, the eighteenth century German thinker, reiterated Heraclitus’ notion of Conflict as the foundation of change in his dialectics (as portrayed in 1964 and 1979 published works on Hegel). Here, Heraclitus’ struggle of opposites is instantiated in Hegel’s dialectical struggle between thesis and antithesis that is eventually reconciled in a synthesis by the Absolute Spirit (Heraclitus’ logos). A critical point in Hegel’s dialectics is that the absolute spirit possesses the absolute power over all forms of change in reality. Weaving this into human socio-political affair, Hegel avers that the State has absolute power and control over the individual in the society. The individual must of necessity conform to the will of the State in order to be free and experience justice. An affront against the State by the individual shall amount to injustice. Thus, it is the State that institute justice and wills freedom. The individual’s will is a passive one.

Karl Marx concretizes Heraclitus and Hegel’s idealistic interpretation of justice and injustice. His study of the human struggle for material needs reveals the inequality between the class of the poor and the rich. Injustice results when the rich, because of their love for only the “self”, ensures that the poor become poorer in order for them, the rich, to be richer. Consequently, the rich class continues to strengthen their economic control of societal wealth. Marx predicts that through unabated struggle and revolt against the rich, the poor shall eventually triumph with the emergence of a classless society (Marx). Historically, Marx’s prediction is yet to materialize, rather the rich have continued to devise more potent strategies for wielding economic power and control. Quite germane to this paper is that Marx focuses on group struggle and is silent about the individual’s inclination.

ii. Justice as a contractual agreement between the individual and the state

While the conflict theorists aver that justice emerges from conflict, the social contractarians posit that conflict must be suppressed and give way to peace for justice to reign. Justice is considered a product of a peace pact between the individuals and the state requiring the former to give the latter the right to control the affairs of the society. Thomas Hobbes was quite concerned about the divergence among humans in their quest to control the means of survival in the society. He explains that humans are naturally egoistic and selfish with the natural drive to only satisfy the self. Hobbes exemplifies this in his hypothetical state of nature “*Naturzustand, ein Zustand der Krieg alle gegen alle*”. It is a state of war against all, a situation where men are equal to their self-law, a state of excess liberty. In this regard, Hobbes (*Leviathan XI*, 98) states: “*Der Begriff von Recht und Unrecht haben im Naturzustand keinen Platz. Wo keine allgemeine Gewalt ist, ist kein Gesetz*“. In other words, in the absence of general power control, there is no law, there is no justice, there is also no injustice, “*Der Mensch*

ist dem Menschen ein Wolf” (Man becomes wolf to Man), and what exists is a jungle of anarchy that can only be curbed by the supreme power of the State (*Staatsvertrag*).

The desire to end this anarchy compels humans to put on the garment of reason and jettison their egoistic tendency. Consequently, everyone came together to surrender their individual will to an appointed leader (the Leviathan) who is given the absolute authority to organize human affairs for the attainment of peaceful coexistence. This marks the emergence of civil society or the state as the institution of justice. Justice thus becomes the property of a God-like State which executes judgments and compels citizens (its subjects), to obey its decisions, for *La justice et l'injustice ne sont nullement des facultés du corps ou de l'esprit. Ce sont des qualités relatives: l'humain en société, non à l'humain solitaire....* (Hobbes, 126).

Indeed Hobbes’ position seems to express the objective of this paper; the individual should have a say in the matter of justice. However, we should note that while the Leviathan is expected to institute justice in the society on behalf of the individual, the concrete reality of today indicates that many Leviathans, due to their absolute power, end up becoming egoistic, totalitarian and dictatorial thereby providing a framework for the institution of injustice at the state level. The individual’s interest brought in through the front door by Hobbes is hereby thrown out through the backdoor.

Contrary to Hobbes’ opinion, John Locke, as reviewed in a 1960 work, posits that the hypothetical state of nature was peacefully managed through natural law that was self-evident to individual human beings. The state was characterized by respect for human freedom and equality. However, in an attempt to forestall conflict in the state and safeguard individual rights (human rights) especially the right to own private property, humans freely unite to form a civil society managed by a government. Government on this note, derives its power from the people. In anticipation of the possibility of injustice by the government, Locke rolls out a caveat that if government or leaders fail to fulfill the wishes of the people or abuse their power, the people reserve the power to rebel against them and appoint new leaders in their place. Locke no doubt maps out a direction for the objective of this paper, but how to ignite individual consciousness towards revolting against societal injustice is not outlined.

Jean-Jacques Rousseau, another social contractarian agrees with Locke that the hypothetical state of nature was peaceful and the call for civil society was to prevent anarchy. Rousseau on his own completely ruled out the individual’s will on the issue of justice since everyone, out of a mutual agreement, has already freely surrendered their will. This mutual agreement becomes a general will to promote justice and equality. Individual interests are sacrificed for general and common interest to abolish what Rousseau calls *l’État de nature*” (State of Nature). *Sitôt que, réunis en une même société, ils sont forcés de se comparer entre eux et de tenir compte des différences qu’ils trouvent dans l’usage continuel qu’ils ont à faire les uns des autres*, states Rousseau (62).

iii. Justice as harmony and virtue of the soul

Plato, the classic ancient Greek philosopher, interprets justice in terms of the harmonious relationship among the three structural parts of the human soul namely, the rational, the spirited, and the appetitive parts (Allen, *The Republic*). The first helps in deploying reasoning into human actions, the second is the seat of courageous decision-making, and, the third is the seat of human desires. Justice ensues in the soul when each of these parts fulfills its role properly. In the same vein, Plato divides the society into

three classes: Producers consisting of artisans, farmers who are productive agents of prosperity; Warriors, very adventurous and courageous guards who defend the society and; Guardians, who are rulers, kings, and philosophers. They direct the affairs of the State.

These categories of individuals with different skills live in harmony in the society and each performing its duty for the benefit of all and the attainment of justice. Together, they produce harmony and justice. They need one another for the peace, progress, and development of the society they live in. They work in harmony, taking into consideration, fairness and equity. Consequently, societal justice is a reflection of justice in the human soul. The take home from Plato's argument is that there is a logical transmission of justice from the individual's soul to the societal soul.

It was Socrates, Plato's tutor, who actually went beyond theoretical speculation to render in practical terms his ideals about justice. Using himself as an exemplar, Socrates demonstrated the critical role of the individual in instituting a sense of justice that transcends the individual's self-interest to that of the society. Although conscious that he was wrongly convicted and sentenced to death for treason by the Athenian society, Socrates willingly accepted the societal judgement and took the hemlock (poison) fearlessly as demanded by the state. While awaiting trial, his friends attempted to help him escape from prison, but he rejected it on account of self-principle. Socrates' moral rebellious attribute thus sets up the tone for the Camusian and Kafkan existential outlooks on how the individual ought to relate with the state on the issue of justice.

A Brief Social and literary landscapes of the Era of Franz Kafka and Albert Camus

Camus and Kafka who could not escape the radical wind that transformed the minds and activities of their time (the 20th century), projected in very crude and queer manners, thoughts that redefined social and divine contracts. The mental rebirth of this period triggered mental revolutions and paved the way for new ideologies, as well as various literary and philosophical movements, such as Dadaism, Surrealism, Expressionism, Negritude, Existentialism, and Absurdism.

A common reawakening strength characterized writings in Europe, Africa, Asia, and America. Kafka, and Camus in particular, presented in simpler forms (prose, drama, and short stories) the philosophical contents of their essays. This gave their literary works a philosophical undertone, a thesis literature or better to say in French, "littérature à thèse", that develops the mind and awakens critical thinking.

Through their dialectic contents, the 20th-century French, African, and German literatures channeled a course for a new humanism vis -à -vis the historical, economic, and socio-political complexity of the era(Deadly world wars , violent revolutions, social unrest and senseless killings, decolonization in Africa, political and economic instabilities).

Critical existential themes of Albert Camus and Franz Kafka

Two fundamental existential themes characterise the thought of Albert Camus: Absurdity and Rebellion. Nevertheless, the writer posits his thought is rooted in the Absurd. In his 1942 *Le Mythe de Sisyphe*, Camus states:

Je juge que la notion de l'absurde est essentielle et qu'elle peut figurer la première de mes vérités. L'unique donnée pour moi est l'absurde » (121). « L'absurde c'est la

raison lucide qui constate ses limites» (134). The absurd is an attitude born out of the strangeness of the world. It is, as Camus describes in his 1951 *L'homme révolté*:

Cette étrangeté que l'homme découvre à travers le temps limité car l'homme désire durer, mais se trouve confronté à ce monde mortel et limité... Tout le cortège de la méchanceté volontaire (meurtres, guerres, violences) qui accroît l'inhumanité et la mort, l'une des premières découvertes de l'absurde (662)

The absurd is clearly understood when we discover our limitations as mortal beings living in a cruel world of light and illusions, unending exile, and hopelessness. Inhumanities, hostilities, and death have converted man into a strange pilgrim on earth who displays a farce between death and life.

The absurd is also the refusal to get lost into religion for it is impossible to believe in a God who is at the same time sterile and powerful. Camus states: *Dieu n'existe tout simplement pas et s'il n'existe pas, je suis Dieu et devenir Dieu, c'est seulement être libre sur cette terre, ne pas servir un être immortel. C'est tirer les conséquences de cette douloureuse indépendance* (1942: 146). Put differently, God is simply inexistent, therefore, I am God and this implies my freedom on earth.

While illustrating the absurd, Camus devoted a chapter to Kafka, acknowledging him as a fundamental influence on his thoughts (1942:205-207). In other words, Kafka influenced Camus. The singularity of Kafka's thought reveals the arbitrary, and, projects his works as an adventure of a man, and by extension humanity, confronted by a fate that outweighs him. Kafka's existential thought lies partly on the consciousness of a wicked existence, a suffocating family, and in getting the most important weapon of victory over the cruel fate of humanity, that is, wanting to die as a way of conquering a worthless life.

Kafka's historical background reveals that his life was marred by continuous conflicts with his father, a merchant who had a harsh childhood and wanted his educated son to experience it as well. He was indeed, a resentful individual, whose socio-cultural background and upbringing were rooted in his Jewish origin, a social group that was previously objectified but which later achieved equality by law in German communities. Kafka avers that human existence is miserable, empty and characterised by a monotony which he explains in his letter of 15 July 1922 to his friend Max Brod that: *L'homme qui se rejouit n'est pas différent de l'homme qui se noie car les deux soulèvent les bras* (*Cahiers bleus in Octavo*). In other words, a man who rejoices is not different from he who gets himself drowned. They all raise their hands in both scenarios. The raising of the hands simply connotes their condemnation and same inevitable end.

Textual dialogue on justice in Camus' *The Guest*, *The Just Assassins*, and *The Fall*

Loyalty and morality are key notions embedded in Camus' thoughts on justice. This was fully demonstrated during the Algerian conflict of the fifties, and fully portrayed in *The Guest*. While denouncing the injustices of the world, Camus stated in *Combat* (1948):

le monde où je vis me répugne, mais je me sens solidaire des hommes qui y souffrent. Il y a des ambitions qui ne sont pas les mêmes et je ne serais pas à l'aise si je devais faire mon chemin en m'appuyant sur les pauvres privilèges qu'on réserve à ceux qui s'arrangent dans ce monde. Mais il me

semble qu'il est une autre ambition qui devait être celle de tous les écrivains: témoigner et crier chaque fois qu'il est possible, dans la mesure de notre talent, pour ceux qui sont asservis comme nous (1948:249 – 250).

... The world in which I live is disgusting but I show solidarity with those who suffer in this world. Some ambitions are not for me and I would not be at ease if I should carve a way for myself alone by leaning on the poor privileges reserved for those who accommodate themselves in this world. To me, there seems to exist another ambition that should preoccupy every writer: To witness and cry at any given opportunity, according to the measure of our talent, for those "who are subjugated like us (Our translation) (1948: 249 – 250). (Our translation).

He had earlier advocated for democracy and dialogue in the Arab world. He openly denounced the senseless killings of his epoch. In an interview with Claudine Chonez in 1947, he expressed his thought on the issue and accepted to be named whatever, but not a murderer, having been accused by the then opposition party (the F.L.N, Front de Liberation Nationale) of taking sides in the Algerian conflict. Denying their claim, he said: *J'admets toutes les positions, toutes, sauf celle du meurtrier (Le Monde, 1947)*. In other words "I subscribe to all positions, all, except that of the murderer"

Camus, who chose to be silent after vain reconciliatory efforts, also said:

J'ai toujours condamné la terreur. Je dois condamner aussi un terrorisme qui s'exerce aveuglement dans les rues d'Alger par exemple, et qui un jour peut frapper ma mère ou ma famille. Je crois à la justice, mais je défendrai ma mère avant la justice. (*Discours du prix Nobel à Stockholm 1957*)

I have always condemned terror. I will also condemn blind terrorism on the streets of Algiers which for example, could kill my mother or my family one day. I believe in justice but I will choose my mother above justice. (Our translation).

If justice is achieved by means of terror, it would be meaningless. For him, wasting the lives of the innocent on the streets in the name of justice is meaningless and equally translates to injustice. Camus declares: *J'ai choisi la justice pour rester fidèle à la terre (Lettre, 7)*, meaning, *I have chosen justice to remain loyal to the earth*. (Our Translation).

In relation to our texts of study, one could easily identify Camus' deep sense of justice in terms of loyalty and duty to the protection and preservation of everything in reality as instantiated in the characters of Kaliyev (*The Just Assassins*) and The Arab (*The Guest*). Kaliyev remained loyal and dutiful to his group and, even in death, for the triumph of justice. He rejected any form of nihilism that could manifest as a harvest of destruction of animals, (domestic and wild ones together), plants (good and bad ones together), humans (the just and the unjust), good edifices, innocent and culpable souls together. The destruction of everything as characteristic of Hobbesian state of nature does not solve anything. The writer strongly affirmed this position in *The Just Assassins* by sparing the lives of two little innocent kids who were in the autocratic Duke's carriage. Albert Camus' concept of justice is rational and, converts the individual to a penitent Judge, just like Jean-Baptiste Clamence in *The Fall*. It breeds a loyalty that transcends the theory of social contract (Rousseau) to accommodate an all-encompassing justice: vis-à-vis the earth, the physical

environment, all for the good of humanity. His sense of justice is moral, existential, environmental and humanistic.

Contrary to the desire of Camus, the world is characterized by immorality and injustice as demonstrated by the followings characters in the texts of study: *Stephan*, who did not care to kill the innocent kids (*The Just Assassins*), *Clamence* (*The Fall*) who pretended not to see the young lady who was committing suicide in his presence, *George's father* (*The judgment*) who was materialistic and did not care about his son's feelings, but sentenced him to death, *the masked men* (*The Trial*) who arrested Joseph K. without a motive, and *the officer and the cruel machine* (*In The Penal Colony*) with their wicked and unjust manner of meting out crime and punishment. The Consequences are not only "dead and sick" constitutions all over the places, but the ubiquitous of legal practitioners, who in a ridiculous manner, are known in a Nigerian expression as "charge and bail lawyers". They judge crimes, as Kafka opines, rather than the criminals. In relation to this unfortunate situation, the Camusian man comes to the fore.

Who is the Camusian Man?

The Camusian man is a man who has cloned his mentality with that of Albert Camus. Most importantly, he is conscious that his world is full of imperfections. He is, "*On his own*", a term in Nigerian Pidgin English that signifies he is left to himself. He tries to recreate his existence by adopting a more transcendent view of the notion of justice. This results to an absurd mentality, and his rejection of the cruel fate of humanity. The Camusian glues himself to some elements of pleasure in the world (the sun, beach, etc.). He fights against injustice as revealed by *The Rebel* or as demonstrated by the author during his career of a journalist. The Camusian adopts a positive rebellious approach to denounce the injustice of the world. In *The Rebel* (9) Camus declares: "Rebellion is simultaneously, an act of acceptance, and an act of refusal. The rebel says "no" to any form of oppression but also says "yes" to himself and the values that lie within him. He stubbornly insists that there are certain things in him that are worthwhile and which must be taken into consideration". A rebel is a man who says "no" to injustice and cruelty. He also says "yes" ... Yes to passion, to liberty, to justice. The Rebel believes he has the right to fight against injustice; he shows solidarity with the oppressed and fights for all. By so doing, he proclaims a justice that can be defined as "solidarity founded in Rebellion". He also pronounces murder, a crime against Humanity and allows Meursault (*The Stranger*) and Kaliayev (*The Just Assassins*) to reject clemency and die for murdering in *The Stranger*.

Kaliayev who is the mouthpiece of Camus, is a killer with a moral conscience. He is to some, a "just" killer. He offers his life as an atonement for the life he destroyed (The Duke's). Likewise, the Arab in *The Guest* who was offered the choice to go to prison and be jailed and killed, or run to his kinsmen who were ready to shield him. Being a man with a moral conscience, and knowing that he had broken the law of harmony with the earth, he chose the way to the prison, thus replicating Socrates' willful acceptance of the will of the Athenian state to execute him for wrongful prosecution.

Justice as conceived by Camus forbids that man becomes God to his fellow being. He should rather be God to himself. Consequently, the preservation of human dignity and the triumph of global justice must begin from the individual (*The Fall*), before getting to the collectivity. In other words, for sound dialogues, good

representations, and effective participation in decisions making by all for the respect of human rights, and for empathy, equity, analytical accountability and transparency to reign, justice and fairness must first of all, be rooted in the “self”, that is, the individual. All “selves” must become penitent judges who acknowledge their shortcomings and allow self-judgment to take its course before judging others, just like Clamence in Camus’ *The Fall*. Penitent judgment is simply, the moral conscience at work. It is a self-trial that provokes equity, integrity, compatibility, and most especially, loyalty. According to Camus, just individuals form just societies thus echoing Plato’s theory of justice. Sometimes, they choose to be “Just Assassins” who accept to murder wickedness, tyranny and who in the process of spilling human blood, refuse to be spared but accept to bear the consequences of shedding even wicked blood, and rejoicing for fulfilling their goal, even in death. They act in moderation and reject suspicion, lies, hatred, and extremism that lead to terrorism. Camus has made a point through his fiction, the question is: should we, in concrete reality, really hope for just societies? What does Kafka say about this?

Textual Dialogue of Justice in Kafka’s *The Trial*, *The Judgment*, and *The Penal Colony*

To an extent, Franz Kafka believes that the quest for human justice is a vain investment. This is because a cancer has deeply invaded the heart of men; the cancer of materialism that characterized his unjust father and by extension Man. Materialism to him is selfish and hinders justice. The works of Kafka project the unjust fate of Humanity and a world full of cruelty. Man is condemned for a crime he does not know anything about. As portrayed by *the Trial*, he is accused of a mysterious sin and is unable to escape trial and sentence. Consequently, his alienating quest for justice is unending and labyrinthine.

With their bizarre names (with initials), the characters in Kafka’s texts represent humanity. The hunger for justice has plunged humanity into great despair and frustration. The only way out, according to Kafka, is the adoption of an absurd approach to life, since justice is now synonym to alienation. The obscure laws of justice do not solve the problem of humanity. It represents the image of the ugly fate that entraps humanity. This justice as we said finds a crime where there has never been any crime. It has the characteristics of a God and once one is arrested for any crime, which does not exist anyway, there is no possible bail. The only way out is a verdict that could either be delayed, but which must surely happen: a death that must not scare anyone because it is the only possible means to escape humanity’s trial of existence.

Through absurd characters, *The Trial*, *The Judgment*, and *The Penal Colony* highlight humanity facing judgment. Franz Kafka intends to announce a struggle that humanity had lost, probably due to the infidelity to the earth (Camus) because life is already full of obstacles, and neither man, nor his fellow being, nor God can deliver him from the clutches of fate. The so-called justice becomes an injustice characterized by existence in chains. "All" seems to confront "Man" who struggles to discover the "Law" and "The crime". As a hard nut to crack, through its absurd quest, accomplishment, and trial, Franz Kafka presents justice from a metaphysical point of view.

Though victory is not guaranteed because of inevitable death, he refuses to succumb to fate, and struggles to defend himself. His consciousness of the inevitable death is victory over the ugly plight of humanity. It neutralizes the struggles of life. By

this, Kafka, (Humanity) is "compared to a man tied on loose stones: by his somersaults and bruises, he wants to prove to those who pretend the stones are snow that they are nothing but stones" (Harmut 1997: 96). The characters in Kafka's *The Trial*, *The Judgment*, and *The Penal Colony* are prisoners of the earth who like Kafka, can only taste true justice in alienation and persecution because these are catalysts for the quest of justice, just as Heraclitus portrays in his opposites.

As an employee in an insurance company, as the son of a stern father, and as a victim of broken relationships, Kafka struggles to let justice be but in vain. Writing becomes his only triumphing pill against injustice. It allowed him to plant his first print on the sand of time. It equally revealed his stoic attitude vis à vis death. In *The Judgment*, George (The main character) didn't plead with his father to reverse the unfair sentence pronounced on him. Rather, he speedily flung himself into the river and got himself drowned. This symbolic flat but fatal rejection of injustice reveals his perfect and deep desire for justice. This rejection of injustice is a kind of freedom and peace that every human should desire for himself because nothing in this world can offer it to him, not even women (his failed relationships), not even the family (conflict between Kafka and his father), not even God (an unfair human condition that persists), neither employment (his resignation from the insurance company) nor divine or human justice, but Arts alone (writing). Arts exposes concealed moral pains, it exposes inner moral wounds, treats them, and finally relieves the mentally wounded. Thus, in the light of Kafka's works, the importance of literature and in our case legal fiction, could be viewed as:

“Une flamme qui ne laisse pas de suie” and “Un grand embrasement: celui des choses et des êtres auxquels les mots ont mis le feu. La purification spirituelle recherchée, c'est par le feu qu'elle passe, au travers de l'acte rituel d'écrire qui est comme un exorcisme quotidien auquel Kafka se livre dans son combat quotidien avec le monde.

“A flame that does not leave soot” and “A great spark: that of things and of beings upon whom words have set on fire. The spiritual purification sought after, and that passes through the flames of writing rituals which were like a daily exorcism Kafka involved himself in, as he struggled with this world. (Max Brod, 179) (Our translation).

As declared by Césaire (1939), l'oeuvre d'art est une arme miraculeuse (the work of art is a miraculous weapon). It liberates, perturbs, illuminates, and calms the soul. By writing, Kafka suppresses the alienating and perpetual search for God and justice. Writing becomes consolation, correction, self-justice, counselor and a good choice to make. Franz Kafka decides, through Arts and in the character of (George) to metamorphose into an insect in *The Metamorphosis*. This symbolizes his call for reform in the conscience of the human heart and the judiciary. As Sunday Anozie rightly points out, social realities influence human behaviors. His sociology is applicable to the literary minds of Albert Camus and Franz Kafka.

Indeed, the characters in our texts are images of social phenomena. Their quest for justice reveals some critical realities. For instance, reactions or situations produce some effects on the mentalities of writers and the characters in the texts who in return, displayed new attitudes or principles. (The emergence of the doctrines of Dadaism, Surrealism, of the Absurd, and of existentialism readily come to mind). Another striking fact is that in *The Guest*, Daru replaced the hunger that caused the murder of the Arab's cousin (lack of grains) with some provisions, money, and liberty. This

generosity produced a positive effect on the Arab; moral consciousness. This suggests that negative situations or phenomena on humans can produce a bad conscience, but a little bit of goodness or justice can activate their good conscience. The sorrowful childhood of Camus and Kafka built in them a strong mentality. While one lacked parental love (Kafka), the other (Camus) lacked parental affluence. These denials helped in reshaping their minds. The physical absence of Camus' father (he lost him at a very tender age) and the moral absence Kafka's father (he never cared for his wellbeing) produced in them another way of visualizing the world. It is also interesting to note that the ailment they both suffered from (tuberculosis) and the industrial revolutions of the twenties activated some attitudes, mentalities, and changes in them and the society. Thus, the two writers ensure that the characters of the texts of study equally reflect these social realities.

Part of Kafka's belief was that exploitation, objectification, and materialism are "the daughters" of industrialization. Industrialization birthed some social transformations which in turn buried social and moral values. This very contagious wind of social change negatively transformed mentalities and attitudes. It also generated insecurities, ailments, (pollutions) dehumanization, capitalism, child labor, armament which is the brain of world wars I and II, loneliness, and psychological trauma. Inflicted by this social malady, Kafka's parents were suddenly transformed into lovers of money and strict slaves of material things, but at the same time attaching less value to their son. Like Charles Dickens, industrialization exposed Franz Kafka (Gregoire in the *Metamorphosis*) and Albert Camus to early childhood labour. This may possibly be the source of their common ailment (tuberculosis).

The dialogue of texts as proposed by Kristeva can also be witnessed between *the Penal Colony* (Kafka) and *the Guest* (Camus), as both texts end on positive notes. Both novels present the question of choice and liberty. They presents hosts (Daru in *The Guest* and the commandant in *The Penal Colony*) although they were not published at the same time (1957 and 1914, respectively). *The Judgment*, *The Trial* and *The Just Assassins* also present the question of choice and liberty. All the protagonists were given the chance to survive but, being cornelian heroes, who are always confronted by difficult tasks, they decided to embrace the absurd for justice to prevail. The theme of politics is also glaring in Kafka's *Penal Colony* (the denunciation of totalitarian rule in the 20th century) as well as in Camus' *the Guest* (the Franco-Algerian conflict).

The Fall, *The Trial*, and *The Penal Colony* dialogue in anonymous and symbolic styles, however, they allow the reader to ponder best on justice and injustice. This is because the law has proceedings and logics which do not cover or take into consideration some crime motives that are triggered by environmental factors, remote or long term abandonments that fiction brings into freudian reality. Legal literature illuminates innermost motives and painful experiences. Legal literature is a genuine communication about what cannot be communicated orally. Just as Teubner (2012) points out, "literary reconstruction can attain an individual insight into the secret worlds of legal practice; it can produce an added value that goes beyond the most highly advanced sociology of the legal paradox to date".

Another striking observation is that there is a trial in all the texts although one of them, *The Trial* (Kafka) illuminates the five other texts. *The trial* is a hypertext that showcases a detailed inter- presence among the six texts. Moreover, by its anonymous structure, *The Trial* attempts to produce an answer to the labyrinthine quest of the law and justice.

Almost all the characters in *The Trial* are Joseph K's accomplices (the judges, the women, his colleagues, etc.). Their sin or crime is simply because they exist and their only defender is death which frees them from all troubles. This same concept is found in Kafka's *The Judgment* where death symbolizes peace. Another common point in the texts is the rejection of forgiveness and clemency and the claim of responsibility. *The Trial*, *The Penal Colony*, *The Fall*, *The Just Assassins* present together, the rejection of clemency and symbolic death of the main characters in the texts. *The Trial* symbolizes the birth of man in sin and the unavoidable evil which Camus stoically accepts, just like the wolf in Alfred de Vigny's "La mort du loup" (*Les Destinées*).

Joseph K. turns down the offer of forgiveness by the religious man and refuses to resign to fate by fighting verbally against his unjust accusation. He continues to enjoy his normal life. This refusal makes him different from Kaliayev (*The Just Assassins*) who like the Lamb of God (Jesus) accepts to carry the cross of humanity and to do the will of his father because he wants to bring salvation to mankind. Kaliayev also shed his blood for the triumph of justice and benefit of all. However, Joseph K (*The Trial*), George (*The Judgment*), and Kaliayev (*The Just Assassins*) cannot adapt to our strange world. The characters abhor injustice and ultimately choose to obtain freedom in death. This is why (Harmut, 1997) compares the unjust fate of Man to "rolling stones" that Kafka uses to prove to those who pretend they (the stones) are snow that they are nothing but stones.

The judgment and *The Guest* present respectively, paternal and legal sentences. However, the paternal sentence in *The Judgment* is a mere utopia. It could have been avoided since there is no institution to regulate it (no court). A contemporary George could have shunned the death sentence of a wicked and old father and possibly killed him. However, bitterness and the bad sides of life gave him the urge to die and be free. This is a heroic decision. The question of choice and the basis for existentialism unfolds still. George chooses to die, not ordinarily but in a symbolic ejaculation. The battle between him and his father is a household battle that opposes just two individuals, while that which confronts the Arab (*The Guest*) is legal and political. Handcuffed, the Arab had to face Daru (a French teacher) and Balducci (a French security agent (The law)). This reminds us of colonialism and the Franco-Algerian conflict of the fifties. Of course, the law was hunting for the Arab, but it was not hunting for George (*The Judgment*), who was rather haunted by his desire to be freed from the alienation of his father and of this world. It is also quite interesting to note that three administrative organs awaited the Arab: The prison, the court, and the law. On the contrary, no institution was waiting to apprehend George's father who was at the same time the judge, the witness, the court and the prison, the accuser, the defender, the law, and an agent of death for his son. This appears strange because there seems to be a spiritual bond between father and son.

An invisible and indomitable demon also seems to haunt the characters in the six texts: this is nothing but the demon of death, a demon that existed since the fall of man when he committed "moral adultery" against the earth. This demon has taken the lead in the creation of an agency of evil in his kingdom and this agency is in charge of human affairs. Its principal goal is the fall of men. In addition, this is the reason why in *The Fall* (Camus), Jean Baptiste Clamence confesses his iniquities to free himself. He becomes a penitent judge. The Arab (*The Guest*), Kaliayev (*The Just assassins*), the officer (*The Penal Colony*) are also penitent judges because they were somehow psychologically tortured for having killed and paid for killing by washing their blood-

stained hands with their own blood for the triumph of justice. This confirms the source of penal Justice. It comes from natural, moral, and innate justice. It is spiritual because it withdraws peace from the criminal.

Conclusion

This study pointed out the relevance of legal fiction for the practice of justice in our contemporary world, within the context of 20th century French literature. Legal fiction reveals deeply concealed motives of crimes. The reader is able to discover through the characters in texts, chains of events that lead to crimes. This could offer clues for the detectives who sometimes, find it difficult to gather facts at a glance. A once upon a time convicted writer can reveals in his writings, how best to commit a crime, how best criminal could be detected and how best to solve the problem. Writers, being advocates for the oppressed, clearly write to heal the society.

The unending quest for justice in Kafka's texts implied that trustworthy judiciaries were lacking in his time, and even today. The study therefore advocates for commensurable punishment to crimes committed, obedience to the rule of Law, as well as the establishment transparent and strong legal institutions. However, this should begin with the "self", that is the individual. We should rather focus on the things that suppress our obedience to this law such as hunger, (the Arab who stabbed his cousin because of grains in *the Guest*), alienation (*The Trial*), worries (which did not allow Clamence to perceive that someone was drowning beside him), etc. The greatest dream or aspiration of the UN is to maintain global peace through justice but how just is the UN? Have the Committees of Nations been able to achieve lasting justice that would help to promote and sustain developments? Is there an act that can curb international conflicts, communal and ethnic clashes? If yes, can it promote a North-South dialogue or any cooperation void of exploitation? Why are religious, legal and cultural institutions that should promote morality, truth and justice not really doing much? The answer to these questions is still the same. Only "this silent and soothing wind that blows from the heart" can change the narrative, this mysterious wind of justice that generates a guilty conscience (*The Fall*). Justice is therefore the practice of what the silent and soothing wind blowing in heart directs us to do or not, because whenever we act unjustly, we are filled with natural guilt, just like Jean Baptiste Clamence who was psychologically tortured for failing to rescue a young girl he saw committing suicide by the riverside. (*The Fall*). Nothing stopped him from saving a life that was wasted. The selected texts project the moral conscience, as a strong factor for justice and equity. The lack of moral conscience in a good measure is haunting the world today. It has been intoxicated by some of our inventions and evil desires (toxic drinks, power, and weapons of mass destruction for example) and could be resuscitated through our understanding of the mystery of justice and through our rejection of injustice even at the price of death.

In addition to this, justice as ethics and institution today should be pursued through an in-depth study of crimes' inner motives, especially when pardoned criminals keep repeating their crimes. The study could be coined criminal, historical, and environmental psychology. Our texts of study present absurd situations that could help in criminology, as they reveal the characters' mindset.

More importantly, there is a need to populate the world with 'good souls' of Bertold Brecht's *The Good person of Szechwan* (1994) by following the engagements and thoughts of Camus and Kafka on justice. They were educated, they did not just

write to forget their woes, they also worked to earn a living, and in particular, they were positively engaged in their activities. If people are positively engaged, (the youth for example), if the declining reading culture is revived, education and employments are provided, one would have groomed good “products” that would shun injustice and promote justice. Note that both writers were young men who lived in an unjust milieu, worked hard, and witnessed the evils of their time, but promoted justice in their works and remain relevant in the literary space.

Works cited

- Allen, R. E. *Plato The Republic*. New Haven: Yale University Press, 2006.
- Anozie, Sunday. *Sociologie du Roman Africain, Réalisme, Structure et Détermination dans le roman moderne ouest africain*. Paris: Aubier-Montaigne, 1970.
- Bakhtin, M. *The Dialogic Imagination: Four Essays*. ed. Michael Holquist, Translation by Caryl Emerson and Michael Holquis. Austin: University of Texas Press, 1981.
- Brecht, B. *The Good Person of Szechewan*. Transl. John Willett in *Collected Plays: Six*, London: Methuen, 1994.
- Brod, Max. *Franz Kafka Souvenirs et Documents*. Trad. H. Zylberberg. Paris: Gallimard, 1991.
- Camus, Albert. *The Rebel: An Essay on Man in Revolt*. Anthony Bower Trans. London: Hamish Hamilton, 1953.
- . *Lettre à un ami allemand*. Paris: Gallimard, 1972.
- . “The Guest” in *Exile and kingdom*. New York: Vintage Books, 1991.
- . *Combat*. Paris: France, Décembre 1948.
- . *Le Mythe de Sisyphe*, Coll, Idées. Paris: Gallimard, 1942.
- . *L’Homme révolté*. Paris: Gallimard, 1951.
- . *Discours de réception du prix Nobel*, 1957.
- . *The Fall*. Penguin Classics, 2006.
- . *The Just Assassins*. In *Caligula and Three other Plays*. New York: Vintage Books, 1958.
- . *The Stranger: Critical Essays*. Peter Francev Eds. Newcastle: Cambridge Scholars publishing, 2014.
- Césaire. *Cahier d’un retour au pays natal*. Paris: Présence Africaine, 1939.
- Gagarin, M. & Woodruff, P. *Early Greek Political Thought Homer Sophists*. Cambridge: Cambridge University Press, 1995.
- Harmut, M. Rastalsky. *No Exit? Hegemony and Hopelessness in Kafka, Beckett, and Handke*. Michigan: University of Michigan Press, 1997.
- Harris, W. *Heraclitus: The Complete Fragments with DK Numbers*. Middlebury College, 1994.
- Hegel, G.W.F. (1964). *Hegel’s Political Writings*. T. M. Knox (trans.) Oxford: Clarendon Press.
- . George, W.F *System of Ethical Life and First Philosophy of Spirit*. H.S. Harris and T.M. Knox (trans.) Albany, NY: State University of New York Press, 1979.
- Hobbes, T. *Léviathan*, Trad. F. Tricaud, Sirey. Paris: Gallimard, 1971.
- Hume, D. *A treatise of Human Nature. (1739-40)- Book III: Morals*. Jonathan Bennett Translation. Oxford University Press, 2017.
- Interview de Camus avec Claudine Chonez in *Le Monde*. 1947.
- Kafka, Franz. “The Judgment” in *Kafka’s The Metamorphosis and Other Writings*. ed: Helmut Kiesel. New York: The Continuum International Publishing Group, 2002.

- . *In The Penal Colony*. UK: Penguin Classics, 2011.
- . *The Trial*. Trans. David Willie. New York: Courier Corporation. Dover thrift Editions, 2012.
- Kristeva, Julia "Word, Dialogue and Novel" in *The Kristeva Reader*. T. Moi. Ed. Oxford: Blackwell, 1986.
- Locke, John. *Two Treatise of Civil Government*. P. Laslett (ed.), Cambridge: Cambridge University Press, 1960.
- Marx, K. (2000). *Karl Marx: Selected Writings*. 2nd Edition. D. McLellan (ed.) Oxford: Oxford University Press.
- Ost, Francois et al. *Kafka ou l'en deçà de la loi*. Presses de l'université Saint Louis, 2001.
- Plato. *La République*. Livre II, Trad. Victor Cousin, 2012.
- Rousseau, Jean-Jacques. *Discours sur l'origine et les inégalités parmi les hommes*. Paris: Flammarion/ 1ère Ed., 2011.
- Shaw, D. "On Misunderstanding Heraclitus: The Justice of Organisation Structure". *Philosophy of Management*, 2019, vol.18: 157-167. <https://doi.org/10.1007/s40926-018-0097-y>
- Zengin, M. "An Introduction to Intertextuality as a Literary Theory: Definitions, Axioms and the Originators". *Pamukkale University Journal of Social Sciences Institute*, 2016. Vol.50: 299-327. <https://DOI:10.5505/pausbed.201696729>